



Public Notice

**U.S. Army Corps
of Engineers**
Pittsburgh District

In Reply Refer to
Notice No. below

US Army Corps of Engineers, Pittsburgh District
1000 Liberty Avenue
Pittsburgh, PA 15222-4186

Application No. 200400603

Date: June 15, 2005

Notice No. 05-40

Closing Date: July 15, 2005

1. TO ALL WHOM IT MAY CONCERN: The following After-The-Fact application has been submitted for a Department of the Army Permit under the provisions of Section 404 of the Clean Water Act (33 U.S.C. 1344).

2. APPLICANT: Dlesk Realty & Investments
P.O. Box 3009
Wheeling, West Virginia 26003

3. LOCATION: in unnamed tributaries to Wheeling Creek, near Bethlehem, Ohio County, West Virginia

4. PURPOSE AND DESCRIPTION OF WORK: Dlesk Realty & Investment is applying for an After-The-Fact Department of the Army Permit to develop a Commercial/Light Industrial Development Center which includes commercial building foundations and building pads with attendant features. Construction activities will occur in two Phases. The project will require the discharge of fill material to be placed into approximately 3,120 feet of stream channel of which approximately 890 feet has been previously impacted without obtaining a Section 404 permit. These unauthorized fills are being considered under this permit action. The unauthorized fills (980 ft.) are associated with Phase 1. Anticipated impacts with Phase 2 would include additional impacts (approximately 1700 ft.) of the main stem unnamed tributary to Wheeling Creek on-site. In addition, approximately 600 feet of an unnamed tributary (originating on the southern hillside) to the main stem would be impacted. The proposed site development will have a top of fill elevation of approximately 980 ft. Mean Sea Level (MSL). Compensatory mitigation has been discussed with the applicant. Stream improvements to Boggs Run have been preliminarily discussed however, at this time no plan has been received. Drawings of the proposed project are attached to this notice.

5. WEST VIRGINIA CERTIFICATION: This permit decision will not be made until the State of West Virginia, Division of Environmental Protection (WVDEP), issues, denies, or waives State Certification. This public notice does not serve as application to the WVDEP for certification required by Section 401 of the Clean Water Act. The applicant must apply directly to the WVDEP for individual water quality certification. The WVDEP will also consider whether or not the proposed activity will comply with sections 301, 302, 303, 306, 307 of the Clean Water Act or any other appropriate State laws. Any person wishing to comment, provide information, and/or request a public hearing concerning certification for this project should write to the:

West Virginia Department of Environmental Protection
Division of Water & Waste Management
ATTN: Regulatory Review Program
1560 Kanawha Blvd. E.
Charleston, West Virginia 25311
Telephone: 304-558-6649

Re: Public Notice CELRP-OR-F No. 05-40

6. IMPACT ON NATURAL RESOURCES: The District Engineer has consulted the most recently available information and has determined that the project is not likely to affect the continued existence of any endangered species or threatened species, or result in the destruction or adverse modification of habitat of such species which has been determined to be critical. This Public Notice serves as a request to the U. S. Fish and Wildlife Service for any additional information they may have on whether any listed or proposed to be listed endangered or threatened species may be present in the area which would be affected by the activity, pursuant to Section 7(c) of the Endangered Species Act of 1972 (as amended).

7. IMPACT ON CULTURAL RESOURCES: The National Register of Historic Places has been consulted, and it has been determined that there are no properties currently listed on the register which would be directly affected by the proposed work. If we are made aware, as a result of comments received in response to this notice, or by other means, of specific archeological, scientific, prehistorical, or historical sites or structures which might be affected by the proposed work, the District Engineer will immediately take the appropriate action necessary pursuant to the National Historic Preservation Act of 1966 - Public Law 89-665 as amended (including Public Law 96-515).

8. PUBLIC INVOLVEMENT: Any person may request, in writing, within the comment period specified in the paragraph below entitled "RESPONSES," that a public hearing be held to consider this application. The requests for public hearing shall state,

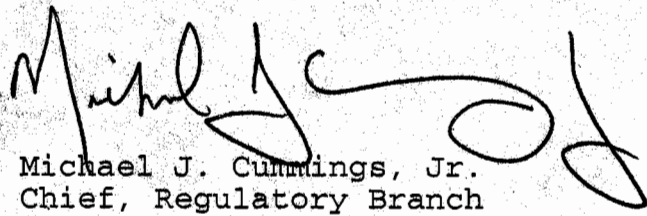
with particularity, the reasons for holding a public hearing.

9. EVALUATION: Interested parties are invited to state any objections they may have to the proposed work. The decision whether to issue a permit will be based on an evaluation of the probable impact including cumulative impacts of the proposed activity on the public interest. That decision will reflect the national concern for both protection and utilization of important resources. The benefit which reasonably may be expected to accrue from the proposals must be balanced against its reasonably foreseeable detriments. All factors which may be relevant to the proposal will be considered including the cumulative effects thereof; among those are conservation, economics, aesthetics, general environmental concerns, wetlands, historic properties, fish and wildlife values, flood hazards, flood plain values, land use, navigation, shoreline erosion and accretion, recreation, water supply and conservation, water quality, energy needs, safety, food and fiber production, mineral needs, considerations of property ownership and, in general, the needs and welfare of the people. The Corps of Engineers is soliciting comments from the public; Federal, state, and local agencies and officials; Indian Tribes; and other interested parties in order to consider and evaluate the impacts of this proposed activity. Any comments received will be considered by the Corps of Engineers to determine whether to issue, modify, condition or deny a permit for this proposal. To make this decision, comments are used to assess impacts on endangered species, historic properties, water quality, general environmental effects, and the other public interest factors listed above. Comments are used in the preparation of an Environmental Assessment and/or an Environmental Impact Statement pursuant to the National Environmental Policy Act. Comments are also used to determine the overall public interest of the proposed activity. The evaluation of the impact of the activity on the public interest will include application of the guidelines promulgated by the Administrator, Environmental Protection Agency, under the authority of Section 404(b) of the Clean Water Act (40 CFR Part 230).

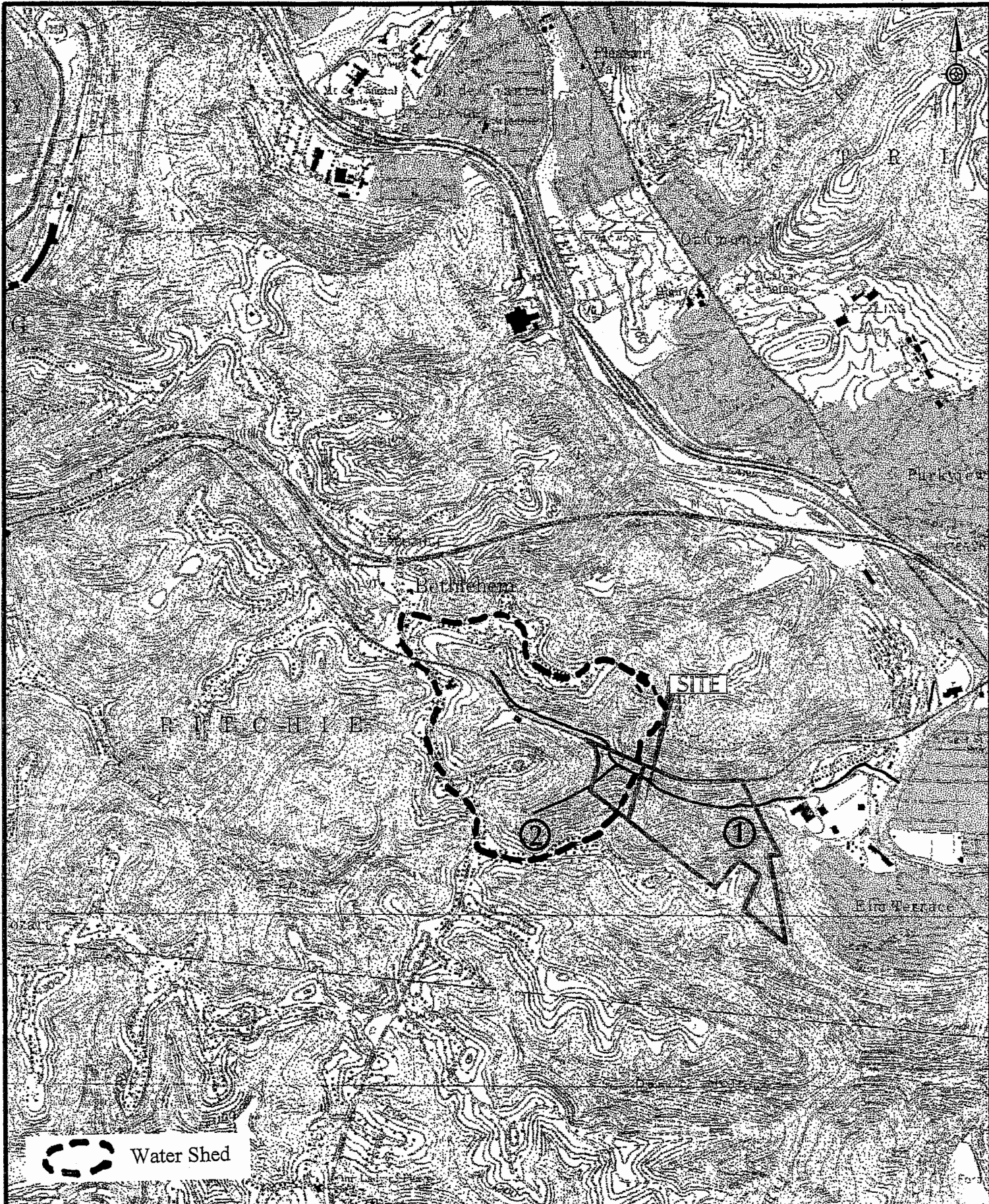
10. RESPONSES: A permit will be granted unless its issuance is found to be contrary to the public interest. Written statements concerning the proposed activity should be received in this office on or before the closing date of this Public Notice in order to become a part of the record and to be considered in the final determination. Any objections which are received during this period may be forwarded to the applicant for possible resolution before the determination is made whether to issue or deny the requested DA Permit. All responses to this notice should be directed to the Regulatory Branch, attn Allen Edris, at the above address, by telephoning (412) 395-7158, or by e-mail at allen.edris@usace.army.mil. Please refer to CELRP-OR-F 200400603 in all responses.

CELRP-OP-F
Public Notice No. 05-40

FOR THE DISTRICT ENGINEER:



Michael J. Cummings, Jr.
Chief, Regulatory Branch



TRILINE
ASSOCIATES, INC.

400 TECHNOLOGY DRIVE, SUITE 100, CANONSBURG, PA 15317

DLESK PROPERTY DEVELOPMENT
BETHLEHEM, WEST VIRGINIA

SITE LOCATION MAP

DATE: 6/21/04

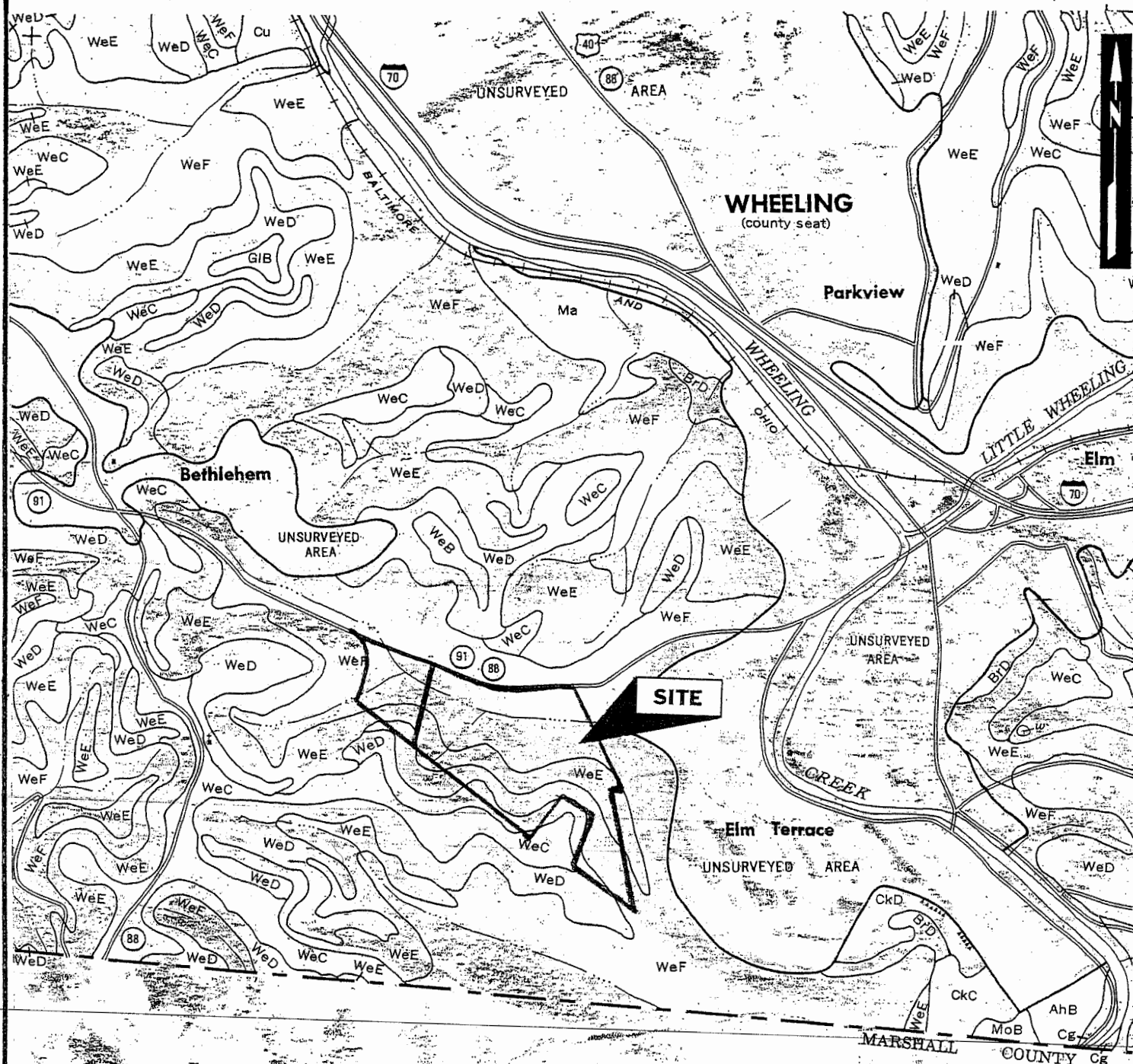
PROJECT NO: A04191

DRA: JAS

CHK: JTC

FIGURE: 1

SCALE: 1" = 2000'



Soil Unit	Hydric Status*
WeC, Westmoreland silt loam, 10-20% slopes	non-hydric
WeD, Westmoreland silt loam, 20-30% slopes	non-hydric
WeE, Westmoreland silt loam, 30-40% slopes	non-hydric
WeF, Westmoreland silt loam, 40-55% slopes	non-hydric
* Soil units may be classified as primarily hydric, having hydric inclusions, frequently flooded, non-hydric, or not classified.	

TRILINE
ASSOCIATES, INC.

400 TECHNOLOGY DRIVE, SUITE 100, CANONSBURG, PA 15517

DLESK PROPERTY DEVELOPMENT
BETHLEHEM, WEST VIRGINIA

USDA SOIL SURVEY MAP

DATE: 6/21/04

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FIGURE: 4

SCALE: 1:20000

